

PLANNING COMMISSION MINUTES

May 15, 2007

7:00 P.M.

Present: Chairman Clark Jenkins, Vice-Chairman Tom Smith, Michael Allen, Ray Keller, Mark Green, City Council Representative Barbara Holt, City Attorney Russell Mahan, City Engineer Paul Rowland, Planning Director Aric Jensen, and Recording Secretary Connie Feil.

Absent: Kirt Peterson.

Clark Jenkins welcomed all those present and had all Commission Members introduce themselves.

Mark Green made a motion to approve the minutes for May 1, 2007 as written. Tom Smith seconded the motion and voting was unanimous.

1. PUBLIC HEARING-Consider granting a variance to allow an existing home to be connected to a detached garage which doesn't meet the current front yard setback, located at 2222 S. 900 E., Michel L. Call, applicant.

Michel Call, applicant, and Forest Call, son of the applicant, were present. Aric Jensen explained that Mr. Call is requesting a variance which would allow him to construct a connection between an existing single family dwelling and an existing detached garage that does not meet front yard setbacks. This property is located in an R-3 zone, and the minimum required front yard setback is 25', although the property clearly qualifies for a 20' front yard setback because of the slope of the lot. Due to the severity of the slope, both the existing dwelling and the existing garage are built on concrete columns. There is a 30' foot elevation change from the back of the sidewalk to the rear of the existing home which results in an average slope in excess of 35%. The garage, at its closest point, is about 16 feet from the front property line. All of the new construction would meet the minimum setback requirements.

The following is a conforming copy of Utah Code 10-9a-702, which outlines the duties of the appeal authority in relation to variances which were given to each Commission member in their packets.

10-9a-702. Variances.

- (1) Any person or entity desiring a waiver or modification of the requirements of a land use ordinance as applied to a parcel of property that he owns, leases, or in which he holds some other beneficial interest may apply to the applicable appeal authority for a variance from the terms of the ordinance.
- (2) (a) The appeal authority may grant a variance only if:
 - (i) literal enforcement of the ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the land use ordinances;

- (ii) there are special circumstances attached to the property that do not generally apply to other properties in the same zone;
- (iii) granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zone;
- (iv) the variance will not substantially affect the general plan and will not be contrary to the public interest; and
- (v) the spirit of the land use ordinance is observed and substantial justice done.
- (b) (i) In determining whether or not enforcement of the land use ordinance would cause unreasonable hardship under Subsection (2)(a), the appeal authority may not find an unreasonable hardship unless the alleged hardship:
 - (A) is located on or associated with the property for which the variance is sought; and
 - (B) comes from circumstances peculiar to the property, not from conditions that are general to the neighborhood.
- (ii) In determining whether or not enforcement of the land use ordinance would cause unreasonable hardship under Subsection (2)(a), the appeal authority may not find an unreasonable hardship if the hardship is self-imposed or economic.
- (c) In determining whether or not there are special circumstances attached to the property under Subsection (2)(a), the appeal authority may find that special circumstances exist only if the special circumstances:
 - (i) relate to the hardship complained of; and
 - (ii) deprive the property of privileges granted to other properties in the same zone.
- (3) The applicant shall bear the burden of proving that all of the conditions justifying a variance have been met.
- (4) Variances run with the land.
- (5) The appeal authority may not grant a use variance.
- (6) In granting a variance, the appeal authority may impose additional requirements on the applicant that will:
 - (a) mitigate any harmful affects of the variance; or
 - (b) serve the purpose of the standard or requirement that is waived or modified.

In regards to Section 10-9a-707 (2)(a)(i - v), Staff's opinion is that the petitioner has shown that he meets all of the necessary criteria such that the Commission may grant a variance. First, literal enforcement of the ordinance would create an unreasonable hardship that is not necessary to carry out the general purpose of the zoning ordinance, i.e., Demolishing and relocating the existing garage four feet so that it meets the 20' setback would result in an extra ordinary hardship that could be avoided with the granting of a variance.

Second, there are special circumstances which apply to this property that do not apply to all other properties in the subdivision; specifically, the average slope of this lot is in excess of 35%, and the slope starts immediately at the back edge of the sidewalk. There is no other lot in the immediate vicinity that has such severe topography.

Third, there is more than ample space on the property to demolish the garage and reconstruct it

along with the proposed new construction, however, that would require disturbance of the existing vegetation and additional excavation and soil retention which is undesirable and which could negatively affect the adjoining property to the north.

Fourth, this is not contrary to the general plan which calls for single family development and related accessory structures, and approving the requested variance would provide substantial justice for the property owner.

In regards to Section 10-9a-707 (2)(b - c), the hardship is located on the property and is the result of circumstances peculiar to the property.

Single family permits are normally reviewed and approved by the Bountiful City Building Department, and so the Commission is not approving the actual permit or site plan, but only a variance or variances from certain provisions of the Zoning Ordinance based on the site plan submitted. The Planning Commission may vote to approve the request in its entirety, to approve the request with modifications, continue the item for further discussion, or to deny the request depending on its findings.

[End of memo]

There was a brief discussion in regards to the height of the new structure. The new construction will bridge the existing structures and will be the same height as the existing structures. There will be little or no modification to the existing topography because of the natural water drainage on the slope.

The public hearing was opened for comments and concerns. The public hearing was closed without comments.

Mark Green made a motion to grant the variance with the findings from the staff's report with the condition that it be limited to the extension shown on the proposed site plan. Tom Smith seconded the motion and voting was unanimous in favor.

2. Consider a zone amendment from RM-13 to PO-N (Professional Office Neighborhood Subzone) for 485 S. 100 E. and 127-137-155-160-172-184 and 198 E. 500 S., Marv Blosch, applicant.

Marv Blosch, applicant, was present. Mr. Jensen explained that this item has been discussed several times over the past 12 months. Several public hearings have been held regarding the proposal which were well attended by residents and property owners of the area. The Planning Commission listened to the public comments and determined that professional office uses were desirable in this area to help encourage reinvestment and property upkeep. However, the Commission also felt that the existing PO Zone text had some provisions that were not compatible with this particular area. As a result, the Commission directed Staff to make

modifications to the PO Zone text specifically for the benefit of this area. The changes to the PO Zone were adopted by the City Council on May 8, 2007.

At this time Mr. Blossch and several others property owners are requesting a zone map amendment from RM-13 to PO-N (Professional Office - Neighborhood) for several parcels of property located along 500 South between 100 East and 200 East. Most of these properties are single family homes that have either been converted to duplexes or that are otherwise being rented. The PO-N zone has been created specifically for troubled areas like this one. Staff recommends approval of the proposed zone map amendment for the properties as indicated in the Staff report.

There was a discussion between the Commission and Mr. Blossch in regards to the boundary of the proposed re-zone and signatures of all those who approve the proposal.

Rusty Mahan explained that Mr. Blossch will present a revised site amendment for Riley Court Apartments removing the two homes on 500 South that are shown in the rezone.

Michael Allen made a motion to recommend to the City Council a zone amendment from RM-13 to PO-N as proposed. Barbara Holt seconded the motion and voting was unanimous.

3. PUBLIC HEARING-Consider preliminary subdivision plat approval for the Fadel Property located at 240 S. 1300 E. & 1260 E. 250 S., Kelly Rasmussion, applicant.

Kelly Rasmussion, applicant, was present. Paul Rowland explained that this proposed 3-lot subdivision involves lots on two different existing streets; a single lot fronting a new cul-de-sac constructed at the end of the 250 South stub dead end, and two lots fronting 1300 East Street on the west side. All of the lots exceed the minimum frontage and area requirements for the zone, which is R-3. The 250 East lot is quite large at 23,671 sf. and is very flat for the area. The two 1300 East lots are good sized at about 15,000 sf. and 16,000 sf and are already graded such that they will make perfect walkout basement lots. However, some of the material along the west side of 1300 East may be unconsolidated fill which will need to be evaluated when excavations are made for homes on the two lots.

The single lot on 250 South provides the opportunity to resolve a problem dead-end situation that has existed on 250 South since it was constructed about 30 years ago. An exception is requested that no sidewalk be required around the cul-de-sac, with the curb and gutter built right on the property line because the property is fairly narrow at that point. Since the new cul-de-sac will only have one fronting lot, it is a reasonable exception request and is similar to the exception granted on 700 East at the Eckman Subdivision two years ago.

Mr. Rowland explained that the water service will be provided to the two 1300 East lots from the existing water line in that street. The only real new utility main lines needed will be a short extension of the sewer line into the cul-de-sac, and a new fire hydrant to properly terminate the

dead end water line in 250 South. Drainage will continue to flow onto 1225 East Street from the new cul-de-sac as it has done for ever. The developer will have to pay a storm water impact fee.

Staff recommends that the Planning Commission send a favorable recommendation to the City Council for preliminary subdivision approval of the Fadel Property Subdivision with the following exceptions and conditions:

Exception:

The cul-de-sac at 250 South Street be constructed with an 84 ft. Diameter cul-de-sac with no sidewalk and with the curb and gutter constructed at the property line.

Conditions:

1. Prepare a Plat that meets the requirements of the Zoning Ordinance ready for recording.
2. Pay Bonding and Fee requirements.
3. Prepare a complete set of construction plans for the road work
4. Replace all damaged walk and C&G along 1300 East up to 100 %.
5. Provide a current title report.

There was a brief discussion amongst the Commission members. There was no concern with the exception of no sidewalk at the cul-de-sac on 250 South.

The public hearing was opened for those with comments and concerns.

Mr. & Mrs. Dan Bell, residing at 1240 E. 250 S., approve of the proposal.

The public hearing was closed without further comments.

Mark Green made a motion to recommend to the City Council preliminary approval of the Fadel Subdivision located at 230 S. 1300 E. subject to the conditions outlined by Staff. Ray Keller seconded the motion and voting was unanimous in favor.

4. Consider preliminary site plan review for IHC Commercial addition located at 390 N. Main, GSBS Architects, applicants.

Jeff Newman, representing GSBA Architects, and Stephen Dibble, representing Intermountain Healthcare, were present. Aric Jensen explained that GSBS Architects, representing Intermountain Health Care (IHC), is requesting commercial site plan approval for an addition to the existing IHC building located at 390 North Main Street. The parking for this addition would be located on the south side of 300 North on an adjacent site also owned by IHC. The Ordinance requires that all off-street parking be located on site, however, the Downtown Zone allows alternative parking patterns at the discretion of the approving authority.

There are only three significant issues that need to be addressed: parking, storm water detention, and building design.

Usually parking issues involve a lack of parking, however, in this instance the issue is over-parking. Depending on whether this project is reviewed as a professional office use or medical clinic use, the site will require between 160 and 192 parking stalls. As proposed, the site would have 271 stalls, which results in approximately 79 to 111 excess stalls. This is a concern because excess stalls result in unnecessary runoff, increased heat island effects, and places for vagrancy and other criminal activities

Second, the new parking field located on the South parcel is proposed to have an in-lot storm water detention field. This is probably the least desirable form of detention possible. Staff has been working on some alternative designs for the existing creek and the storm water detention plan should tie into it.

The last significant issue relates to the building design. The applicant needs to provide conceptual elevations and a building material list/board in order for the Commission to make a final recommendation.

Paul Rowland explained that the water drainage from the south parking lot needs to be detained. Mr. Rowland gave two suggestions: 1) to acquire a section of the adjoining property for the detention and have that drain out into the creek. 2) The ground slopes down toward the creek, which the south end could detain the water and then drain into the creek.

Staff recommends preliminary site plan approval for the IHC commercial addition with the following conditions:

1. The excess parking issue be addressed satisfactorily.
2. The storm water detention issue be addressed satisfactorily.
3. The applicant provide conceptual elevations and a building colors and materials board.
4. The applicant make all revisions as shown on the redlines.

There was a discussion in regards to having a pedestrian entrance off of Main Street and the possibilities for drainage to the creek. The entrance off of Main Street isn't functional for the configuration of this facility and would create a hardship for the clinic. The drainage problem will be discussed and reviewed between Staff and the design team for IHC.

Michael Allen excused himself at 7:50 p.m.

Mark Green made a motion for preliminary site plan approval for IHC commercial addition located at 390 N. Main subject to the conditions outlined by staff. Barbara Holt seconded the motion and voting was unanimous in favor.

5. Consider conceptual review for Session Place (working title to be renamed), located at 251 E. 500 S., Newport Residential, Steve Akerlow, applicant.

Mark Green declared that he is under contract with Newport Development on other projects but he has no connection with this project.

Mike Akerlow, Steve Akerlow, and Chat Palmaroy, representing Newport Development, was present. Russell Mahan explained that the Planning Commission and City Council allow having a conceptual review. This provides a property owner/developer an opportunity to present an idea before the Planning Commission for their opinion without the expense of a full site plan review. Steve Akerlow is now presenting a conceptual plan to the Commission for their opinions and suggestions.

Aric Jensen explained that this proposal is for a PUD with less than the four acre minimum requirement. Since PUD's require a rezone there is no need for a minimum size requirement. But, having a minimum size requirement will prevent having a project too small for an area. Also, not having the minimum size could limit the smaller projects that would benefit an area.

Steve Akerlow explained that the name of the project has been changed to Summer's Gate. Booklets of the project were presented to the Commission members for their review. Mr. Akerlow explained that all the property has been purchased and the two existing rental homes would be demolished. This is a great area for this type of housing. It is close to the commercial/downtown area, hospital and physicians, and is the gateway to the residential area with larger homes. This project would be designed for empty nesters, widows/widowers, and older couples. This is a community type feel with 55% open space and 10 detached cottage type town homes.

Ray Keller excused himself at 8:07 p.m.

There was a discussion between the Commission members and the applicants. There were some concerns with the size of the side yards on 500 South, having the side of the homes facing 500 South, colors of the homes, and the design of the garages. The Commission agreed with the concept and felt that there is a need in the community for this type of housing. The Commission asked that Staff review the current PUD ordinance and suggest changes that would allow this type of housing. It was also suggested that the developer visit the neighbors for their input and comments.

6. Planning Director's report, Commission Procedures, and Policy Revisions.

Russell Mahan explained that there have been some problems with the current policy regarding limiting voting to only those Commissioners present at a public hearing. An example is with the public hearing in Highland Oaks. If the discussion continues beyond June 30, 2007, Kirt Peterson and Mark Green will have left the Planning Commission and the necessary votes will

not be there. Mr. Mahan suggested revising the policy as follows:

**BOUNTIFUL CITY PLANNING COMMISSION
RESOLUTION NO. 2007-1**

A resolution adopting a Voting Policy Concerning Public Hearings.

It is hereby resolved by the Bountiful City Planning Commission that whenever a public hearing requested by State or City law is held, a Commission member who does not attend that public hearing ~~shall not~~ may vote on the matter for which the public hearing was held if the Commission member has read the minutes of the public hearing or has listened to the recording of that public hearing.

[End proposed resolution]

Clark Jenkins suggested that when a public hearing is held, the minutes be given to those not present as soon as possible for review. Barbara Holt made a motion to approve the changes to the policy as written. Mark Green seconded the motion and voting was unanimous.

Meeting adjourned at 8:30 p.m.